

REMARKS

This document is responsive to the final Office Action dated November 9, 2011. In light of the foregoing amendments and the following remarks, it is believed that all pending claims patentably distinguish over the cited references and should be formally allowed.

On a preliminary note, claims 22-31 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Examiner notes that “[c]laims 22-25 depend from canceled claims and are therefore indefinite in scope.” *See Office Action dated 11-9-2011, p. 2*. In response, claims 22-25 are amended to properly depend from currently pending claims and, thus, the indefiniteness rejection should be withdrawn as moot. Further, the Examiner contends that claim 22 is indefinite because it recites the limitation “the recesses” for which there is insufficient antecedent basis. However, claim 22 (as amended) depends upon claim 21, which expressly requires “at least one wheel having recesses therein.” As there is proper antecedent basis for the phrase “the recesses” in claim 22, it is respectfully submitted that the indefiniteness rejection should be withdrawn.

Turning to the merits, claims 21, 23, 25, 28 and 30 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 6,321,895 to Kilby et al. (“Kilby”). Claims 21, 23, 25, 28 and 30 also stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent No. 844,288 to Purdy (“Purdy”) in view of U.S. Patent No. 5,908,364 to Tanaka (“Tanaka”). Further, claims 26 and 27 stand rejected as allegedly being obvious over Kilby in view of U.S. Patent No. 6,415,908 to Ambs et al. (“Ambs”) as well as allegedly being obvious over Purdy in view of Tanaka and further in view of Ambs. Finally, claims 22, 24, 29 and 31 stand rejected as allegedly being obvious over Purdy in view of Tanaka and further in view of U.S. Patent No. 538,895 to Casgrain (“Casgrain”).

In the Action, the Examiner contends that Kilby discloses each and every limitation of independent claim 21. However, the Examiner states “that the claims are directed to a cable assembly, and therefore the limitations regarding the wheel have not been given weight.” As

discussed below, claim 21 has been amended and is directed to a transmission mechanism including at least one wheel, and, thus, the limitations regarding the wheel should be given weight by the Examiner.

Specifically, claim 21 requires a transmission mechanism including at least one wheel having recesses therein. The transmission mechanism further includes a cable assembly passing at least partially around the at least one wheel when in use and the cable assembly has a plurality of cables and a plurality of connector devices for operatively connecting an end portion of each associated cable to form an endless cable. The connector devices are arranged in spaced apart relation along the length of the endless cable. Further, each connector device includes a power transmission member and a coupling operatively connecting the end portion of the associated cable to the power transmission member. Finally, the power transmission member is a generally tubular member and circular in cross-section generally having end sections including rotatable bushes, with the end sections being receivable within the recesses in the wheel as the cable assembly passes therearound.

In contrast to the claimed invention, Kilby relates to a conveyor for continuous proofing and baking apparatus including a conveyor chain 50 including a plurality of carriages 52. Although Kilby discloses axles 82 for supporting pairs of wheels 84 which in turn support the conveyor chain 50 for movement along the track 56, it fails to disclose a transmission mechanism including at least one wheel having recesses therein wherein **the end sections including rotatable bushings of the power transmission member are receivable within the recesses in the wheel as the cable assembly passes therearound** as required in claim 21.

Instead of addressing this deficiency in Kilby, the Examiner merely contends that these "limitations regarding the wheel have not been given weight." *See Office Action dated 11-9-2011, p. 3.* However, based upon the amendments to claim 21, these limitations should be given patentable weight and, consequently, Kilby fails to disclose all the required

elements of claim 21. As the law provides, an “anticipation” rejection under Section 102 requires “strict identity” between the prior art invention and the one set forth in the claim. *See Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989) (holding that an anticipating reference must describe all claimed aspects of the invention). Since Kilby fails to disclose all the “claimed aspects” of independent claim 21, the anticipation rejection should be withdrawn. Claims 23, 25, 28 and 30 depend from claim 21 and are also believed to be allowable. *See Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1296, 63 USPQ2d 1597 (Fed. Cir. 2002) (noting that if an independent claim is not anticipated by prior art, then its dependent claims, which necessarily include the limitations of the independent claim, are not anticipated either).

Turning to the obviousness rejections, the Examiner relies upon Purdy for disclosing all the required elements of claim 21 except “rotatable bushings on the transmission member.” *See Office Action dated 11-9-2011, p. 5.* Again, the Examiner refuses to give the limitations regarding the wheel any weight. To supply the missing teaching from the primary reference, Tanaka is cited for disclosing “a rotatable bushing member (5) between the connecting members (3) and the transmission members (4) so that the connecting members can rotate freely about the transmission member.” *See id.* The Examiner concludes that “[i]t would have been obvious . . . to have modified the cable assembly of Purdy to include bushing members between the power transmission members and the couplings, as taught by Tanaka, simply to enable them to rotate with reduced friction.” *See id.*

In making this combination, the Examiner ignores the express teachings of the Purdy reference. Namely, Purdy teaches a device wherein the ends of the power transmission member are pinned to the coupler “against displacement.” In more detail, Purdy provides that the ends of the rungs (R) (cited by the Examiner as the power transmission member) are secured against displacement by means of spring key pins (P). *See Purdy, p. 1, ll. 47-61.* Further, Purdy teaches that this construction enables the sprocket wheels to “engage the

rungs on both sides of the eye-heads” and to “make and use a rung of the plainest form, consisting simply of a cylindrical rod formed only with the transverse holes.” *See id. at p. 1, l. 105 – p. 2, l. 5*. Since the Purdy reference explicitly teaches a device wherein the ends of the power transmission member are pinned to the coupler “against displacement,” modifying it to provide rotatable coupling elements at the ends of the power transmission member is contrary to the explicit teachings of the Purdy reference. Thus, the obviousness rejection is improper as the Purdy reference actually teaches away from the proposed modification. *See McGinley v. Franklin Sports, Inc.*, 262 F.3d 1339, 60 USPQ2d 1001 (Fed. Cir. 2001) (stating “references that teach away cannot serve to create a prima facie case of obviousness” *citing In re Gurley*, 27 F.3d 551, 31 USPQ2d 1130 (Fed. Cir. 1994)).

In addition, the proposed modification forces one to provide “retaining-shoulders or similar devices” on the rung to prevent longitudinal movement. For example, the retaining rings 44 in Figure 6 of the present application, which are the structures that Purdy explicitly seeks to avoid using. *See Purdy at p. 1, ll. 96-105 and p. 2, ll. 1-5*. Further, the Purdy reference is explicitly designed to provide the rung in engagement with sprocket wheels “on both sides of the eye-heads” so providing rotatable bushings on the ends of the power transmission member would effectively serve no purpose in the Purdy device.

Clearly, the proposed modification renders Purdy unsatisfactory for its intended purpose (i.e. the elimination of retaining shoulders on the power transmission member or rung and the use of a rung of the plainest form, consisting simply of a cylindrical rod) and changes the principle of operation of the reference (i.e. provides a power transmission member with displaceable or rotatable bushings that include retaining shoulders or similar devices). In other words, the proposed combination of references would require a substantial reconstruction and redesign of the elements shown in the primary reference to Purdy as well as a change in the basic principle under which the construction of Purdy was designed to operate. *See MPEP § 2143.01 V* (“If proposed modification would render the prior art

invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)"); *see also* MPEP § 2143.01 VI ("If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).").

For at least these reasons, it is respectfully submitted that the Examiner has failed to establish a *prima facie* basis for obviousness the rejection of independent claim 21. As a result, claims 23, 25, 28 and 30, which depend from claim 21, are also believed to be allowable based upon the reasoning in *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) (holding that if an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious).

With respect to claims 26 and 27, the Examiner contends that the combination of the Kilby and Ambs references render these claims obvious. Specifically, the Examiner admits that Kilby does not specifically teach swaging, but relies upon Ambs for supplying the missing teaching and concludes that "[i]t would have been obvious . . . to have used swaging, as taught by Ambs et al., as it was a well-known means for securing the cable to the coupling member, to provide a cost effective robust means of connection." *See Office Action dated 11-9-2011, p. 4*. As discussed above, Kilby fails to disclose a transmission mechanism including at least one wheel having recesses therein wherein the end sections including rotatable bushings of the power transmission member are receivable within the recesses in the wheel as the cable assembly passes therearound as required in claim 21 of which claims 26 and 27 are dependent therefrom. Further, Ambs does not supply this missing teaching. As none of the cited references either alone or in combination disclose all the required elements of these claims, the obviousness rejection should be withdrawn.


Claims 26 and 27 are also rejected as allegedly being obvious over the combination of

the Purdy, Tanaka and Ambs references. Again, as discussed above, the combination of Purdy and Tanaka is improper as the proposed modification renders the Purdy reference unsatisfactory for its intended purpose (i.e. the elimination of retaining shoulders on the power transmission member or rung and the use of a rung of the plainest form, consisting simply of a cylindrical rod) and changes the principle of operation of the reference (i.e. provides a power transmission member with displaceable or rotatable bushings that include retaining shoulders or similar devices). Since the Ambs reference does not address the shortcomings of the combination of the Purdy and Tanaka references, it is respectfully submitted that these claims are allowable for the same reasons discussed above.

Finally, claims 22, 24, 29 and 31 stand rejected as allegedly being obvious over Purdy in view of Tanaka and further in view of Casgrain. Specifically, Casgrain is cited for its teaching relating to the specifics of the claimed wheel. However, it is respectfully submitted that the Casgrain reference does not address the shortcomings noted above with respect to the combination of the primary reference to Purdy with the Tanaka reference. Thus, the obviousness rejection is without merit and claims 22, 24, 29 and 31 should be allowed.

In summary, it is now believed that all pending claims are allowable and a Notice of Allowance is earnestly solicited. If any issues remain, the Examiner is encouraged to contact the Applicant's counsel at the telephone number listed below in order to reduce costs and expedite the prosecution of this patent application. **To the extent any fees are due, the undersigned authorizes their deduction from Deposit Account 11-0978.**

Respectfully submitted,
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